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10-12-07

No. 07 – 335

In The

Supreme Court of the United States

SHELLY PARKER, TOM G. PALMER,
GILLIAN ST. LAWRENCE, TRACEY AMBEAU,
AND GEORGE LYON,

Cross – Petitioners,

vs.

DISTRICT OF COLUMBIA AND
MAYOR ADRIAN M. FENTY,

Cross – Respondents.

On Conditional Cross-Petition for a Writ of Certiorari to the United States Court of Appeals for The District of Columbia

BRIEF OF *AMICI CURIAE* : RUSSELL NORDYKE, SALLIE NORDYKE, T S TRADE SHOWS, MADISON SOCIETY AND GOLDEN STATE SECOND AMENDMENT COUNCIL ON "STANDING ISSUES" IN SUPPORT OF CROSS-PETITIONERS' CONDITIONAL CROSS-PETITION

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QUESTIONS PRESENTED

1. Did the Court of Appeals improperly impose a prudential justicability standing requirement on the *Parker* litigants, over and above the Article III requirements?

2. Should the *Parker* litigants be required to risk felony prosecution under federal gun laws in order to have standing to challenge a local weapon ordinance?

3. Is it doctrinally sound for a court of appeals to analyze the underlying substantive rights at issue, as a foundation for making a ruling on standing?

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MEMORANDUM OPINION
FOR THE ATTORNEY GENERAL:
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Interest of Amici Curiae[1]

Amicus curiae T S TRADE SHOWS is the business name used by RUSSELL and SALLIE NORDYKE to conduct business as gun show promoters throughout Northern and Central California.

Amicus curiae MADISON SOCIETY has chapters throughout California. The society is a membership organization whose purpose is preserving and protecting the legal and constitutional right to keep and bear arms for its members and all responsible law-abiding citizens.

Amicus curiae GOLDEN STATE SECOND AMENDMENT COUNCIL is an independent firearms rights organization dedicated to the advancement of the right to keep and bear arms in California.

Amici herein have an especially keen interest in the outcome of this case, as *Nordyke v. King*, 319 F.3d 1185 (2003), reh'g en banc denied at *Nordyke v. King*, 364 F.3d 1025 (2004), cert. denied at *Nordyke v. King*, 543 U.S. 820 (2004) is once again pending in the Ninth Circuit Court of Appeals. [Case No.: 07-15763]

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[1] This amicus brief is filed with the consent of the parties in compliance with Supreme Court Rule 37(2)(a). The written consent of the petitioners and the respondents are on file with this Honorable Court, having been filed on September 28, 2007 and October 3, 2007, respectively. Pursuant to rule 37.6, the *amici* submitting this brief and its counsel hereby represent that neither party to this case nor their counsel authored this brief in whole or in part, and that no person other than *amici* paid for or made a monetary contribution toward the preparation and submission of this brief.

Introduction

In the event that this Honorable Court grants the District of Columbia's Petition for Writ of Certiorari, the Court should also take up the standing issues presented in the Conditional Cross-Petition filed by SHELLY PARKER, TOM G. PALMER, GILLIAN ST. LAWRENCE, TRACEY AMBEAU, and GEORGE LYON.

This case arises out of a controversy between citizens and their local government over the meaning of the "right to keep and bear arms." The case was brought by residents of that *District (not exceeding ten Miles square)*[2] who have challenged the gun prohibition policies enacted and enforced by the District of Columbia.

A paradox of this case/controversy, is that the substantive (merits) question presented – *Whether the Second Amendment confers an individual right?* – has been answered in the affirmative by Congress; a body with exclusive legislative authority[3] over the District of Columbia.

Congress has acknowledged and affirmed an *individual rights* interpretation of the Second Amendment in three separate instances; all within recent memory of anyone reading this brief. See:

- THE RIGHT TO KEEP AND BEAR ARMS – Report of the Subcommittee on the Constitution. United States Senate, Ninety-Seventh Congress, 2d Session. February 1982. [Document No. 88-618]
- Firearm Owners' Protection Act of 1986. Pub. L. No. 99-308, 100 Stat. 449 (1986)

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[2] U.S. Constitution, Art. I, Sec. 8, Cl. 17

[3] Id.

- Protection of Lawful Commerce in Arms Act. Pub. L. No. 109-92, 119 Stat. 2095 (2005)

The executive branch of the federal government is in accord. See:

- MEMORANDUM OPINION FOR THE ATTORNEY GENERAL – Whether the Second Amendment Secures an Individual Right. Issued on or about August 24, 2004. Authors: Steven G. Bradbury, Principal Deputy Assistant Attorney General; Howard C. Neilson, Jr., Deputy Assistant Attorney General; and C. Kevin Marshall, Acting Deputy Assistant Attorney General. Available online at: www.usdoj.gov/olc/secondamendment2.pdf.

The Seat of Government of the United States is a unique jurisdictional region. In some ways it is treated like a state. See 18 U.S.C. § 921(a)(2) for a statute that treats the District of Columbia like a "state" for purposes of *enforcing* the nation's gun laws.

Constitutionally, the District of Columbia must be treated as the federal enclave that Article I, Section 8, Clause 17 creates. See also: *Adams v. Clinton*, 90 F.Supp. 2d 35 (D.D.C. 2000), *aff'd*, 531 U.S. 941 (2000).

It should be without question that citizens of the United States who reside in the shadow of the Nation's Capitol ought to enjoy the purest, undiluted protection of the Bill of Rights precisely because of where they live.[4]

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[4] "[T]here can be little doubt, that the inhabitants composing [the District] would receive thankfulness such a blessing, since their own importance would be thereby increased, their interests be subserved, and their rights be under the immediate protection of the representatives of the whole Union." From: Commentaries on the Constitution of the United States, by Justice Joseph Story. Chap. XXIII, Section 1214.

***Parker* Presents No Prudential Standing Issues**

If the Court grants the District's petition for a *writ of* certiorari, this Court should also grant the conditional cross-petition in order to further explain its prudential standing jurisprudence and to instruct the lower courts on the appropriate standing analysis that must be applied to pre-enforcement constitutional challenges of criminal statutes. The errors made by the lower courts lie in their superficial analysis of the prudential standing issues in this case, and cases like it.

This Honorable Court has a rich history of resisting the temptation to expand its jurisdiction beyond the limitations imposed by Article III, and those prudential limitations based on the very structure of the Constitution itself.

Declining an invitation to render an advisory opinion to the administration of our first president, and basing this declination on the doctrine of separation of powers, Chief Justice John Jay wrote to President George Washington on August 8, 1793:

> We have considered the previous question stated in a letter written by your direction to us by the Secretary of State on the 18th of last month, [regarding] the lines of separation drawn by the Constitution between the three departments of the government. These being in certain respects checks upon each other, and our being judges of a court in the last resort, are considerations which afford strong arguments against the propriety of our extra-judicially deciding the questions alluded to, especially as the power given by the Constitution to the President, of calling on the heads of departments for opinions, seems to have been *purposely* as well as expressly united to the *executive* departments.

> We exceedingly regret every event that may cause embarrassment to your administration, but we derive consolation from the reflection that your judgment will discern what is right, and that your usual prudence, decision, and firmness will surmount every obstacle to the preservation of the rights, peace, and dignity of the United States.[5]

Constitutional justicability issues are governed by the "Cases and Controversy" doctrine set forth in Article III, Section 2. Usually framed as ripeness, mootness, and prohibitions on advisory opinions and the taking up of political questions, these irreducible limitations on judicial power are also supplemented by the Supreme Court's self-imposed prudential limitations as developed by case law.

These self-imposed prudential barriers to federal court jurisdiction have usually been addressed through inquiries into an individual litigant's standing to bring a case, as contrasted with mere Article III limitations addressing appropriate issues that may come before a federal court. See generally: *Flast v. Cohen*, 392 U.S. 83, 99 (1968).

In §§ 3-7 through 3-16 of his treatise on American Constitutional Law, Third Edition (2000), Professor Tribe describes how this Honorable Court has evolved beyond *Flast v. Cohen*, and has begun analyzing prudential standing as being grounded in the separation-of-powers doctrine, so that the purpose behind these rules of justicability have become the means of keeping the judicial branch within its proper bounds

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[5] The Founders' Constitution: Volume 4, Article 3, Section 2, Clause 1, Document 34. The University of Chicago Press http://press-pubs.uchicago.edu/founders/documents/a3_2_1s34.html The Correspondence and Public Papers of John Jay. Edited by Henry P. Johnston. 4 vols. New York and London: G. P. Putnam's Sons, 1890-93.

and preventing its intrusion into the prerogatives of the coordinate branches. In other words, the purpose of the prudential standing requirements is to make meaningful the central concepts of limited government and separation of powers. See also: *Allen v. Wright*, 468 U.S. 737 (1984) and *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

This separation-of-powers analysis is precisely what is missing in the cases: *Navegar v. United States*, 103 F.3d 994 (1997); *Seegars v. Ashcroft*, 396 F.3d 1248 (2005) and *Parker v. District of Columbia*, 478 F.3d 370 (2007).

The plaintiffs in *Navegar*, were challenging the actions of a co-equal branch of government, namely a statute enacted by Congress. Nonetheless, the *Navegar* Court still neglected to address the separation-of-powers doctrine in its pre-enforcement standing analysis. (i.e., How would the *Navegar* plaintiffs pre-enforcement challenge to a criminal statute passed by Congress offend the separation-of-powers doctrine?)

There is not even a hypothetical challenge to congressional authority in either *Seegars* or *Parker*. The laws challenged by the plaintiffs in these two cases are creatures of municipal legislation in a federal enclave that is governed exclusively by Congress.

As noted above, Congress and the Executive Branch have acknowledged and affirmed that the Second Amendment is a fundamental right held by individuals; yet this wayward District has made rules that contradict those coordinate branches of the federal government. It has stripped inhabitants of that "*ten Miles square*" of a right expressly guaranteed by the Bill of Rights.

If anything, the Court of Appeals in *Seegars* and *Parker* (which was required to follow *Seegars*) has offended the separation-of-powers doctrine by refusing to grant standing to all the plaintiffs in both cases to litigate their challenges to the District of Columbia's gun laws.

A proper pre-enforcement standing analysis must address the underlying policy for limiting judicial action that offends the separation-of-powers doctrine. When those considerations are not present, the self-imposed prudential standing rules of this Court must fall away and any remaining justicability issues should be analyzed under the bare minimum requirements of Article III constitutional jurisprudence.

This case may only be rendered moot if the District of Columbia's gun laws are repealed. There is no political question as the popular branches of government, with constitutional authority over the District, have announced their positions in law and legal memoranda. No party is petitioning the Court for an advisory opinion, except to the extent that declaratory judgments under 28 U.S.C. §§ 2201 and 2202 are advisory opinions.

The only remaining applicable test is whether the case is ripe for review. The factual record below is well developed, leaving only a legal question for this Court. The effect of delaying review on the *Parker* plaintiffs (until one of them gets arrested or becomes a victim of violence?) is immediate and severe, in that they cannot exercise a fundamental right (e.g., the right of self defense in their own homes) without risking criminal prosecution. Nor is there any further administrative discretion that the District can exercise in this matter. It admits that it routinely denies all permits for private possession of handguns and intends to prosecute all other violations of its firearm ordinances. (e.g., keeping an assembled and loaded rifle or shotgun in a residence within the District). See generally: *Ohio Forestry Ass'n v. Sierra Club*, 523 U.S. 726 (1998).

This case is not even really a "pre-enforcement" challenge. It is really a "pre-prosecution" challenge. The law is being enforced right now through civic virtue of the *Parker* plaintiffs.

They are obeying the law (for now) and forgoing their right to defend themselves in their own homes while this case is pending. Telling them that they must defy their government

(which will require confrontation with authorities, arrest and prosecution) in order to have standing to assert their "*right to keep and bear arms*" is more than a little *Kafkaesque*. Are we really ready to provoke a twenty-first century reenactment of the events at Concord Bridge and Lexington Green? This Court should take the opportunity to say: "No, we are not."

Becoming a Criminal Defendant to Achieve Standing to Challenge the District of Columbia's Gun Laws

It is one thing to impose, as a condition of challenging an unconstitutional law, a requirement that a civil plaintiff also become a criminal defendant in order to have standing to challenge that law. It is quite another thing to force that civil rights litigant to also break the laws of other jurisdictions and attempt to engage other persons in a conspiracy to violate those laws merely to gain access to our federal courts.

If *Navegar* and *Seegars* remain the rule on pre-enforcement/pre-prosecution standing, then residents of the District of Columbia will have to violate, not only the District's ordinances to gain access to federal court, but they must also violate federal (and probably state) gun laws and persuade a federally licensed firearm dealer to do the same.

This goes a step beyond a non-violent act of civil disobedience.

A federal firearm licensee (FFL/dealer) must ensure that all sales or deliveries of firearms are made in compliance with state and local law. See 18 U.S.C. § 922(b)(2) and Title 27 C.F.R. § 478.99(b)(2). These federal laws effectively impose a duty on an FFL to know the gun laws in the jurisdictions of its customers.

All retail sales of new/used modern firearms require the completion of ATF Form 4473 (5300.9). The purchaser of a firearm must set forth his/her residence address. [See Box #2]

He or she must also answer a series of questions relating to his/her eligibility to own/possess firearms. [See Box #12] The form is available at: http://www.atf.gov/forms/4473/

That means that an FFL in Virginia and/or Maryland, who probably knows that residents of the District of Columbia cannot legally possess handguns or fully assembled long guns, could be in violation of federal law if he or she were to complete the sale of a functioning gun to a D.C. resident.

18 U.S.C. § 922(b)(3) and Title 27 C.F.R. § 478.99(a) also prohibit a licensee from making a firearm sale to a resident of a state other than the state in which the licensee's place of business or premises is located. There are exceptions for rifles and shotguns that are of no help to D.C. residents.

Both the gun purchaser and the licensee must make truthful statements on ATF Form 4473 or suffer a potential penalty of up to 10 years imprisonment and/or up to a $250,000 fine for making a false statement in connection with enforcement of federal gun law. See generally: 18 U.S.C. § 924 *et seq*. See also: 18 U.S.C. §§ 1001 (false statement) and 1621 (perjury).

Finally, one would assume that a competent U.S. Attorney would also charge the defiant D.C. resident and his/her accomplice FFL with the crime of conspiracy to commit an offense against the United States. See: 18 U.S.C. § 371.

In other words, it is not legally possible for a D.C. resident to acquire and keep in their home a handgun or functioning long gun under federal law *even if* he or she were prepared to violate the District of Columbia's gun laws.

This Court can correct this absurdity by accepting the underlying case for review and by granting the *Parker* litigants cross-petition for certiorari on standing issues.

Repudiation of "Collective Rights" Standing Analysis

The Court of Appeals in *Parker* noted that the Ninth Circuit had recently dealt with a Second Amendment claim by first extensively analyzing that provision, determining that it does not provide an individual right, and then, and only then, concluding that the plaintiffs lacked standing to challenge a California statute restricting the possession, use, and transfer of assault weapons. See *Silveira v. Lockyer*, 312 F.3d 1052, 1066-67 & n.18 (2003).

The Court of Appeals in *Parker*, went on to criticize that approach as doctrinally unsound. See: *Parker v. District of Columbia*, 478 F.3d 370, 376 (2007). If this Court grants the District's petition for certiorari, and grants the cross-petition on standing issues; it should also take the opportunity to instruct the courts of appeal on the flaws of reaching past standing in a to impose an unwarranted (and wrong) decision on the merits, and then turn around and dress it up as a "standings" issue.

Amici herein have an especially keen interest in the outcome of this case, as *Nordyke v. King*, 319 F.3d 1185 (2003) is once again pending in the Ninth Circuit Court of Appeals. Footnote 3 from that opinion speculated on a potential "as applied" challenge relating to the *Nordyke* plaintiffs' First Amendment claims. In litigating that issue, *Nordyke* plaintiffs also "perfected" their Second Amendment claims. After summary judgment was rendered for the County of Alameda, the matter is once again pending in the court of appeals. [Case No.: 07-15763]

Nordyke was distinguished from *Silveira* in Judge KLEINFELD's dissent from the denial of the petition for rehearing en banc. See: *Nordyke v. King*, 364 F.3d at 1026 *et seq.*:

> Whether the Second Amendment guarantees an individual right is more likely to affect the outcome in this case than in

> *Silveira*. In *Silveira*, the challenge was to California's ban on assault weapons. Reasonable regulation of the individual right guaranteed by the Second Amendment might well have led to the same result, no relief, as the result reached by the panel using the "no individual right" argument. In this case, by contrast, the result might well have been different if we had not erased the Second Amendment. The ordinance at issue, subject to narrow exceptions, criminalizes any and all possession of firearms on county property. The case before the panel was about apparently law-abiding persons wanting to hold a gun show at a fairgrounds.

Also instructive is Judge Gould's dissent from the denial of en banc rehearing. *Nordyke* Id. at 1027:

> I dissent with recognition that we only recently denied en banc review in a case presenting a similar issue on the scope of the Second Amendment right to keep and bear arms. *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002), reh'g en banc denied, 328 F.3d 567 (9th Cir. 2003), cert. denied, 124 S. Ct. 803 (2003). However, *Nordyke* differs from *Silveira*, and is more appropriate for en banc reconsideration of the holding in *Hickman*. In contrast to *Silveira*, which involved a challenge to a California law restricting the possession, use, and transfer of assault weapons, 312 F.3d at 1056, a provocative issue, appellants in *Nordyke* challenged a local ordinance prohibiting the possession of all firearms on county property, which had the

> effect of foreclosing a traditional gun show. Some may consider that the regulation of assault weapons may implicate too many difficult considerations beyond that of whether the Second Amendment confers an individual or collective right. The ordinance at issue in *Nordyke*, if it must be tested in light of an individual Second Amendment right, will not raise the same concerns. If the Second Amendment confers an individual right, then the *Nordyke* gun possession ban presents a better context in which our court might have assessed the constitutionally permissible bounds of gun regulation.

The state of the law in the Ninth Circuit is best summed up in Judge Kleinfeld's dissent from denial of rehearing en banc:

> Our court has erased 10% of the Bill of Rights for 20% of the American people. No liberties are safe if courts can so easily erase them, and no lover of liberty can be confident that an important right will never become so disfavored in popular or elite opinion as to be vulnerable to being discarded like the Second Amendment.
>
> [...] Our court takes what to me is a position verging on droll legal humor, that the right is a "collective" right belonging to state government, meaning that it is enforceable only by the state, even when the state is the violator.
>
> [...] Some people think that the Second Amendment is an outdated relic of an earlier time. Doubtless some also think that constitutional protections of other

> rights are outdated relics of earlier times. We The People own those rights regardless, unless and until We The People repeal them. For those who believe it to be outdated, the Second Amendment provides a good test of whether their allegiance is really to the Constitution of the United States, or only to their preferences in public policies and audiences. The Constitution is law, not vague aspirations, and we are obligated to protect, defend, and apply it. If the Second Amendment were truly an outdated relic, the Constitution provides a method for repeal. The Constitution does not furnish the federal courts with an eraser.
>
> KLEINFELD, Dissent from denial of rehearing en banc *Nordyke v. King*, 364 F.3d at 1025.

Many of this Court's references to the Second Amendment are brief, but they all portray it as an individual right, usually lumping it together with the rest of the Bill of Rights. Interpreting the phrase "*right of the people*" in the Fourth Amendment this Court suggested that as used there and in the First and Second Amendments, it denotes rights of individuals. See: *U.S. v. Verdugo-Urquidez*, 494 U.S. 259, 266 (1990).

What is desperately needed is additional Supreme Court Jurisprudence on this issue to either: a) repudiate the states' right (collective) view, or b) establish an intellectually valid basis for it by addressing the following problems which the "collective rights" view fails to address:

- How can any litigation brought to remedy an infringement of the "*right to keep and bear arms*" be addressed through a suit brought by the states on

behalf of "*the people*." Must the states assume the role of *parens patriae* on behalf of their citizens? This is contrary to doctrines articulated by this Court. "The first eight Amendments to the Constitution set forth self-executing prohibitions on governmental action, and this Court has had primary authority to interpret those Prohibitions." See: *City of Boerne v. Flores*; 521 U.S. 507, 524 (1997)

- Construing the "self-executing" provisions of the 15th Amendment in *So. Carolina v. Katzenbach*; 383 U.S. 301, 324 (1966), this Court wrote: "Nor does a State have standing as the parent of its citizens to invoke these constitutional provisions against the Federal Government, the ultimate *parens patriae* of every American citizen. *Massachusetts v. Mellon*, 262 U.S. 447 (1923), 485-486; *Florida v. Mellon*, 273 U.S. 12, 18."

- No Court decision advancing the collective states' right theory mentions – much less reconciles – this Court's holdings that states have no power over the militia as against federal control.[6]

- No decision advancing the collective states' right theory offers any reconciliation of the Second Amendment's use of the term of art "*right of the people*" used in several other parts of the Bill of Rights. Are we to believe that the First Congress used "*right of the people*" to mean a right of individuals in

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[6] See generally: Houston v. Moore, 18 U.S. 1, 24 (1820) (federal militia legislation preempts state), Martin v. Mott, 25 U.S. 19 (1827) (President's power to call militia from state control into federal service), Selective Draft Law Cases, 245 U.S. 366, 383 (1918) (Congress has authority to abolish states militia by bodily incorporating them into federal army), Perpich v. Department of Defense, 496 U.S. 334 (1990) (state militias may be called into federal service over state objection because federal authority over the militia is paramount)

the First Amendment, but 16 words later in the Second it means a right of the states, but 26 words later in the Fourth it means a right of individuals again?

- No collective rights opinion offers any answers to the point raised in *U.S. v. Emerson,* 270 F.3d 203, 227: "As used throughout the Constitution, the people have 'powers' or 'rights,' but federal and state governments have 'powers' or 'authority, never 'rights.'"

- Then there are the Ninth and Tenth Amendments which specifically refer to people's rights and powers and the states' mere powers. See also: *Katzenbach*, supra at p. 323: "The word "person" in the context of the Due Process Clause of the Fifth Amendment cannot, by any reasonable mode of interpretation, be expanded to encompass the States of the Union, and to our knowledge this has never been done by any court."

As Judge Gould stated in his concurring opinion in *Nordyke v. King*, 319 F.3d at 1197:

> We would make progress if the Supreme Court were to establish a doctrine of an individual Second Amendment right subject to reasonable government regulation. The decisional chips would thereafter fall where they may on the basis of particular cases and the delicate balance of their precise facts, aided by the complementary efforts of lawyers, scholars and judges. The law would best put aside extreme positions and adopt an assessment of reasonableness of gun regulation, for this would place us on the right track.
>
> Gould Concurring [footnotes omitted]

Conclusion

If "*the people*" described in the Second Amendment have no standing to assert claims under that Amendment, then this Court needs to give an explanation to the "*the people*" defined by the First, Fourth, Ninth and Tenth Amendments as to what differences exist between these two classes of persons.

Here are passages from an infamous case in which this Court attempted to interpret what it means to be a citizen and/or person with standing to invoke the protections of the United States Constitution and its Amendments: [emphasis is added]

> It would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right to enter every other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night without molestation, unless they committed some violation of law for which a white man would be punished; and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, **and to keep and carry arms wherever they went**. And all of this would be done in the face of the subject race of the same color, both free and slaves, and inevitably producing discontent and insubordination among them, and endangering the peace and safety of the State.

> [...] **Nor can Congress deny to the people the right to keep and bear arms**, nor the right to trial by jury, nor compel any one to be a witness against himself in a criminal proceeding.
>
> [...] It seems, however, to be supposed, that there is a difference between property in a slave and other property, and that **different rules** may be applied to it in expounding the Constitution of the United States. And the laws and usages of nations, and the writing of eminent jurists upon the relation of master and slave and their mutual rights and duties, and the powers which Governments may exercise over it, have been dwelt upon in the argument.

The case, of course, is *Dred Scott v. Sanford*, 60 U.S. 393 (1856). The "different rules" promulgated in that case were an expedient that backfired. This Court in 1856 made a mistake that took a civil war and passage of the Fourteenth Amendment to rectify. That mistake was to deny standing to a man seeking justice in a federal court for rights he knew he had under the United States Constitution.

The collective states' right standing doctrine makes a corollary mistake and a mockery of justice. The rule creates a non-entity. It postulates a class of "*the people*" who have a "*right to keep and bear arms,*" but who nevertheless have no standing to invoke that right.

This Court can correct the prudential and collective rights standing mistakes made by the lower courts by granting the District of Columbia's Petition for Certiorari and also granting the *Parker* litigants' Cross-Petition on the standing issues.

Respectfully Submitted,

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